

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION,

Plaintiff,

v.

UNITED STATES CUSTOMS AND
BORDER PROTECTION and UNITED
STATES IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Defendants.

No. 1:19-cv-11311 (JSR)

STIPULATION AND ORDER OF SETTLEMENT AND DISMISSAL

WHEREAS plaintiff American Civil Liberties Union (“ACLU”) filed this suit in the United States District Court for the Southern District of New York pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, seeking the release of certain records by defendants United States Customs and Border Protection (“CBP”) and United States Immigration and Customs Enforcement (“ICE”), in connection with an earlier administrative request for the same records (the “FOIA request”);

WHEREAS ICE released certain records to ACLU in response to the FOIA request, and CBP had no responsive records;

IT IS HEREBY STIPULATED AND AGREED, by and between the parties, as follows:

1. The documents produced by ICE fully resolve any and all claims ACLU now has or may hereafter acquire against ICE, CBP or the United States of America (“United States”), or any department, agency, officer, or employee of ICE and/or the United States, for the release of records arising from ACLU’s FOIA request at issue in this action.

2. After the Court has approved and docketed this Stipulation and Order, within a reasonable period of time, ICE shall pay to ACLU via electronic funds transfer the sum of SEVEN THOUSAND THREE HUNDRED FIFTY NINE DOLLARS AND FORTY THREE CENTS (\$7,359.43) in attorneys' fees and litigation costs, pursuant to 5 U.S.C. § 552(a)(4)(E), which sum ACLU agrees to accept in complete satisfaction of any and all claims by ACLU for attorneys' fees, expenses, costs, interest, and any other sums related to this litigation. Counsel for ACLU will provide the necessary information for ICE to effectuate the electronic funds transfer.

3. This action is hereby dismissed with prejudice, and without costs or fees other than as provided in paragraph 2 of this Stipulation and Order, provided that the Court shall retain jurisdiction for the purpose of enforcing this Stipulation and Order, as well as the parties' earlier Stipulation Regarding Certain ICE Records, *see* ECF No. 37.

4. This Stipulation and Order shall not constitute an admission of liability or fault on the part of ICE, CBP or the United States or their agents, servants, or employees, and is entered into by both parties for the sole purpose of compromising disputed claims and avoiding the expenses and risks of further litigation.

5. The parties agree that this Stipulation and Order will not be used as evidence or otherwise in any pending or future civil or administrative action against ICE, CBP, the United States, or any agency or instrumentality of the United States.

6. The parties understand and agree that this Stipulation and Order contains the entire agreement between them, and that no statements, representations, promises, agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect.

7. Any obligation of the Government to expend funds under this Stipulation is subject to the availability of appropriations in accordance with the Anti-Deficiency Act, 31 U.S.C. § 1341. This Stipulation shall not be construed to require the Government to obligate or pay funds in contravention of the Anti-Deficiency Act.

8. Counsel for ICE will be filing this Stipulation and Order via the ECF system on behalf of both parties. Pursuant to Rule 8.5(b) of the Electronic Case Filing Rules & Instructions of the U.S. District Court for the Southern District of New York, counsel for ACLU consents to the electronic filing of this Stipulation and Order by counsel for ICE.

Dated: August 28, 2020



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Counsel for Plaintiff

SO ORDERED:

THE HONORABLE JED S. RAKOFF
U.S. DISTRICT JUDGE